

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 02-0598P**  
**Use Tax**  
**For Calendar Years 1999, 2000, and 2001**

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer was audited for calendar years 1999, 2000, and 2001. Upon audit it was discovered that the taxpayer failed to remit use tax on all of its taxable purchases and had no use tax accrual system in place.

Taxpayer requests abatement of the penalty because it maintained a reputation as a good corporate citizen in the State of Indiana. Other than the use tax owed on tractors and trailers purchased out of state, the remainder of the audit was minimal.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed and states that the assessment was minimal except for the tractors and trailers purchased out of state. It has maintained a good reputation in Indiana and requests an abatement of the penalty.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each

taxpayer.”

Taxpayer failed to remit use tax due on one hundred (100%) of its clearly taxable items and had no use tax accrual system in place. Taxpayer filed monthly returns indicating no use tax was due. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer’s protest is denied.